

## **REMARKS**

In response to the Office Action mailed February 11, 2009, the application has been carefully reviewed and amended. Entry of this amendment and reconsideration of the application is respectively requested. Claims 1-10 are pending in the application. Claims 1-10 have been amended to more particularly claim the invention described, to overcome informalities, and to overcome the objections raised by the Examiner including the title. The title was amended to be more descriptive. All 35 U.S.C. § 112 objections have been addressed in this response.

Claims 1-10 stand rejected under 35 U.S.C. § 102(e) as being anticipated by US Publication 2004/0256797 to Dobrindt. The '797 publication has a common inventor. In response, the Applicant is attaching a 37 CFR § 1.132 declaration showing that "any invention disclosed but not claimed in the reference was derived from the invention of this applicant and thus is not the invention by another."

Claims 1-10 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Scarlata (U.S. 5,518,230). Scarlata does not describe an intermediate transport member as described in the present application. Referring to the description of Figure 3 in Scarlata it is clear that Scarlata describes a stack height clamp 108 (column 6, line 32ff). Additionally the element in Scarlata that the Examiner used to reject Claim 3: (106) is not a stop for the sheets but a flag, which is attached to clamp 108... (column 6, line 34ff). Finally the element 108 in Scarlata that the Examiner used to reject Claim 10 (108) is not a gripper mouth but a stack height clamp (column 6, line 7ff).

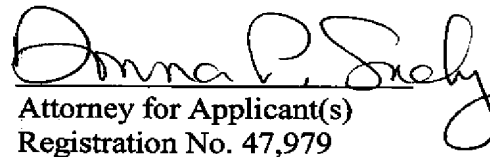
Our 797 application describes a lateral offsetting movement by a roll drive element 16 additionally to the transport by the stacking wheel. The paper is not released from the wheel during the lateral offset movement. In Scarlata (0020 line 13ff) Scarlata describes that the sheet is transported up to the stop bar 14, which is not the case in our application. The lateral movement happens when the substrate is already close to the stop bar (0021, lines 15ff). The roll drive is not at all used for transport in the rotating direction of the stacking wheel but could be used just opposite as breaking element for the further transport of the sheet like element (0009, lines 5ff).

In our application the movement of the gripper mouth is in the same direction as the stacking wheel and not lateral to it. See page 5, lines 6-7 of the present application.

It is respectfully submitted that, in view of the above amendments and remarks, this application is now in condition for allowance, prompt notice of which is earnestly solicited.

The Examiner is invited to call the undersigned in the event that a phone interview will expedite prosecution of this application towards allowance.

Respectfully submitted,

  
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If the Examiner is unable to reach the Applicant(s) Attorney at the telephone number provided, the Examiner is requested to communicate with Eastman Kodak Company Patent Operations at (585) 477-4656.